

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

09 CV 6781

HARTFORD INSURANCE COMPANY OF THE  
MIDWEST a/s/o Dart Realty LLC,

Plaintiff,

-against-

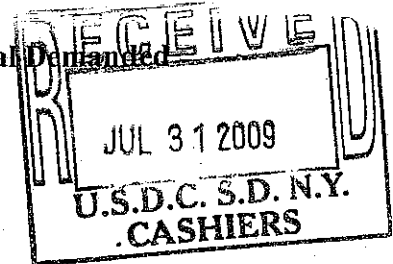
DUNHAM PIPING & HEATING CORP.,

Defendant.

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: Case No.: \_\_\_\_ Civ. \_\_\_\_ ( \_\_\_\_ )

: **COMPLAINT**

: **Jury Trial Demanded**



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x

Plaintiff, Hartford Insurance Company of the Midwest, by its attorneys Robinson & Cole LLP, as and for its complaint against the defendant alleges as follows.

**Background**

1. This is a subrogation action by plaintiff Hartford Insurance Company of the Midwest ("Hartford"), the first party property insurer of Dart Realty LLC ("Dart Realty").
2. Hartford has paid to Dart Realty a total of \$229,400.90 (including Dart's \$2,500 deductible) in connection with a loss sustained by it on February 6, 2008 arising out of a burst plumbing connection which caused substantial water damage to Dart's premises (the "Loss").
3. This action is brought against the plumber which was responsible for the water leak, Dunham Piping & Heating Corp. ("Dunham"), because the Loss was caused by the negligence of one of Dunham's employees.

**Jurisdiction and Venue**

4. This Court has jurisdiction over this matter pursuant to 28 USC §1332 as the action is between citizens of different states and the matter in controversy exceeds \$75,000, exclusive of interest and costs.

5. Venue is proper in this district pursuant to 28 USC §1391(a).

### **The Parties**

6. At all relevant times herein, Hartford was and still is a corporation organized under the laws of the State of Indiana with its principal place of business in Hartford, Connecticut.

7. Hartford was the first party property insurer of Dart Realty under policy no. 12 MS AF4251 which covered the period January 13, 2008 through April 18, 2008 (the "Policy").

8. Pursuant to the Policy and relevant law, Hartford, having paid amounts in connection with the Loss, is subrogated to all of Dart Realty's rights and is entitled to pursue claims against parties which may have caused or been responsible for the Loss.

9. Upon information and belief, at all relevant times herein, defendant Dunham was and is still a corporation duly organized and existing under the laws of the State of New York with its principal place of business in New York City.

### **The Loss**

10. The loss was caused by a burst fitting at the shutoff valve to the hot water supply for the dishwasher in apartment 2F at a building owned by Dart Realty located at 631 East 9<sup>th</sup> Street, New York, New York.

11. Plaintiff's investigation has revealed that the Loss was caused by the over tightening of a nut on the fixture which failed within a short time after the nut had been over tightened.

12. Further investigation revealed that the nut was overtightened by an employee of defendant Dunham.

**Claim for Relief  
(Negligence)**

13. Hartford repeats and realleges the allegations contained in paragraphs 1 through 12 as though fully set forth at length herein.

14. Defendant had a duty of reasonable care to insure that the plumbing work done at Dart Realty's premises was done in a workmanlike manner.

15. Defendant, through their agents, servants, representatives and employees, breached its duty of reasonable care by negligently overtightening the nut in apartment 2F resulting in the fracture and failure of the nut, the bursting of the hot water line to the dishwasher and the ensuing flood resulting in the Loss.

16. Defendant's conduct was the direct and proximate cause of the Loss.

17. Hartford has been damaged in the amount of \$229,400.90.

**WHEREFORE**, the plaintiff demands judgment as follows:

- I. On its claim for relief, the amount of \$229,400.90, plus interest from February 6, 2008;
- II. The costs and disbursements of this action; and
- III. Such other and further relief as to this Court may seem just and proper.

Dated: New York, New York  
July 30, 2009

ROBINSON & COLE LLP

BY: 

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